IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

WEDNESDAY, THE 4TH JULY 2007 / 13TH ASHADHA 1929

WP(C).No. 22606 of 2004(N)

AGAINST THE ORDER IN E.P.1/2004 IN OS.76/2003 OF MUNSIFF, KASARAGOD.

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PETITIONER:

K.ANANTHARAYA SHENOY,
SON OF K.NARAYANA SHENOY, M/S. SHUBHA PAINTS AND HARDWARES, M.G.ROAD, KASARAGOD.

BY ADV. SRI.V.G.ARUN.

RESPONDENTS:

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1. **THE NORTH MALABAR GRAIN BANK,**
   KASARAGOD BRANCH, REPRESENTED BY ITS MANAGER.

2. **K.GIRISH NAIK, SON OF NARAYANA NAIK,**
   VEGETABLE MERCHANT, M.G.ROAD, KASARAGOD,
   RESIDING AT GUDDE TEMPLE ROAD, KASARAGOD.

BY ADV. SRI.M.K.SUMOD.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 04/07/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C). NO.22606/2004:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE EXECUTION PETITION IN O.S. 76/2003 OF THE MUNSIFF COURT OF KASARAGOD, DT. 12/12/2003.

EXT.P.2: COPY OF THE COUNTER BY R.2. DTD. 19/02/2004 IN DO.

EXT.P.3: COPY OF THE AFFIDAVIT AND PETITION DTD. 24/05/2004.

EXT.P.4: COPY OF THE ORDER IN E.P.1/2004 IN O.S. 76/2003 DTD. 05/06/2004 OF THE MUNSIFF COURT, KASARAGOD.

EXT.P.5: COPY OF THE MEMO FILED BY THE R.2. IN E.P.1/2004 DTD. 24/05/04.

EXT.P.6: COPY OF THE AFFIDAVIT AND REVIEW PETITION DTD. 18/06/2004 IN E.A. 302/04 OF DO.

EXT.P.7: COPY OF THE COUNTER AFFIDAVIT IN THE ABOVE E.A. DTD. 23/06/2004.

RESPONDENT'S EXHIBITS: **NIL.**

//TRUE COPY//

prv.

PIUS C. KURIAKOSE, J.

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W.P.(C)No.22606 OF 2004

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DATED THIS THE 4th JULY, 2007

J U D G M E N T

Heard Sri.T.R.Harikumar, learned counsel for the petitioner and Sri.M.K.Sumod, learned counsel for the 1st respondent. Neither of them are able to inform me whether the petitioner has complied with the condition imposed by this Court on 30.7.2004 that a sum of Rs.5000/- shall be paid within one month towards the decree-debt. Probably the issue itself has been settled between the parties.

2. Under the above circumstances, I am inclined to dispose of the Writ Petition itself issuing the following directions:

The execution court will verify whether the petitioner has paid a sum of Rs.5000/- towards the decree-debt before the last day of August, 2004 as ordered by this Court on 30.7.2004. If on verification it is seen that the payment has been made, the court below will (if the E.P. is even now pending) hold up further coercive process against the petitioner, subject to the petitioner complying with the following condition:-

The petitioner will pay every month commencing from the 1st September, 2007 at the rate of Rs.4000/- towards the decree-debt till such time as the entire decree-debt is discharged.

Once the petitioner becomes confident of having discharged the entire decree-debt, it is open to him to file an application for recording full satisfaction of the decree. If such an application is received, the execution court will consider that application and take a decision after hearing both sides.

The Writ Petition is disposed of as above.

(PIUS C.KURIAKOSE, JUDGE)

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